



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/668,494	09/22/2000	Robert E. Jones		1981

7590

08/13/2003

Kenneth E Darnell
P O Box 16362
Portal, AZ 85632

EXAMINER

DIXON, THOMAS A

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/668,494

Applicant(s)

JONES, ROBERT E.

Examiner

Thomas A. Dixon

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-24 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's amendment and arguments filed 6/4/03 regarding the 112 and 101 rejections have been fully considered and are convincing.

Applicant's arguments regarding the 102 and 103 have been fully considered, but they are not persuasive.

In response to the 102(a), the Henderson reference was relied upon under the "described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent," portion of 102(a) to provide a showing that "flight firming" is old and well known, additional articles regarding AAI's existing flight firming Predator™ product is cited.

In response to applicant's argument based upon the age of in re Venner are not convincing, the age of a decision has no bearing on its validity, to the examiner's knowledge the decision has not been overturned.

Claim Rejections - 35 USC § 112 1st

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 11, 23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Art Unit: 3629

Specifically, it is unclear the checking for "suspicious names" is not described in such a way as to enable one of ordinary skill to make and use the invention.

Claim Rejections - 35 USC § 112 2nd

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11, 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the term "suspicious names" is vague.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4-10, 12-22, 24 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Predator™.
5. Claims 1, 4-10, 12-22, 24 are rejected under 35 U.S.C. 102(b) based upon public use or sale as the AAI product Predator™.

Claim Rejections - 35 USC § 103

Art Unit: 3629

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 4-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art or Henderson in view of *In Re Venner*.

Applicant's admitted prior art page 2, line 17 – page 3, line 20 and Henderson, page 1, lines 27-30 disclose that manual systems for the "flight firming" are old and well known, applicant has merely automated the process.

Applicant's admitted prior art does not disclose automation of the method.

Official Notice is taken that to automate a known process is obvious, see *In re Venner*, 120 USPQ 192, 194; 262 F2d 91 (CCPA 1958).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to automate the applicant's admitted method for the benefit of time and labor savings.

37 CFR § 1.105 Requirement

Applicant and the assignee of this application under 37 CFR § 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

7. Evidence of public use or sale has been found in the form of the AAI product Predator™. Thus the following information is requested.

Any user manuals, business plans, sales presentation materials, or product descriptions for AAI products embodying the disclosed subject matter of flight firming systems offered for sale or sold more than one year prior to the instant application.

The fee and certification requirements of 37 CFR § 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 CFR § 1.105 that are included in the applicant's first complete communication responding to

Art Unit: 3629

this requirement. Any supplemental replies subsequent to the first communication responding this requirement and supplemental information disclosures beyond the scope of this requirement under 37 CFR § 1.105 are subject to the fee and certification requirements of 37 CFR § 1.97.

The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR § 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained will be accepted as a complete response to the requirement for that item.

A complete response to this Office Action must include a complete response to this requirement. The time period for reply to his requirement is governed by § 1.135 and 1.136.

Art Unit: 3629

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Dixon whose telephone number is (703) 305-4645. The examiner can normally be reached on Monday - Thursday 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 746-5529 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, appearing to read 'Thomas A. Dixon', with a stylized flourish at the end.

Thomas A. Dixon
Examiner
Art Unit 3629

August 6, 2003